Office - Supreme Court, U.S.
FILED
NOV 4 1981
ALEXANDER L. STEVAS,
CLERK

Nos. 81-97 and 81-323

In the Supreme Court of the United States

OCTOBER TERM, 1981

A.O. SMITH CORPORATION, PETITIONER

v.

DARREL C. NOTTELSON AND
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SMITH STEEL WORKERS D.A.L.U. 19806, AFL-CIO,
PETITIONER

v.

DARREL C. NOTTELSON AND
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

REX E. LEE
Solicitor General
Department of Justice
Washington, D.C. 20530
(202) 633-2217

CONSTANCE L. DUPRE
Acting General Counsel
Equal Employment Opportunity Commission
Washington, D.C. 20506

In the Supreme Court of the United States

OCTOBER TERM, 1981

No. 81-97

A.O. SMITH CORPORATION, PETITIONER

v.

DARREL C. NOTTELSON AND
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

No. 81-323

SMITH STEEL WORKERS D.A.L.U. 19806, AFL-CIO,
PETITIONER

v.

DARREL C. NOTTELSON AND
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The Solicitor General, on behalf of the Equal Employment Opportunity Commission, respectfully submits this supplemental memorandum to correct a possibly misleading assertion contained in the reply brief of petitioner in No. 81-323. Petitioner states: "That the 1972 Congress codified

the EEOC's guideline without material change * * * suggests that Congress accepted the EEOC's published view that the duty of reasonable accommodation did *not* require the exemption of religious objectors from their dues obligations" (Br. 3; emphasis in original). The Commission "view" described in the statement was expressed, not in the Commission's published guidelines, but in a Commission decision that was rendered in 1971. However, this decision was not reported by the unofficial reporting services and, to the best of the Commission's knowledge, it was not generally available until reported in the Commission's 1972 Annual Report, which was published six days after the enactment of Section 701(j). See Br. in Opp. 10-11 n.9.

Respectfully submitted.

REX E. LEE
Solicitor General

CONSTANCE L. DUPRE
General Counsel
Equal Employment Opportunity Commission

NOVEMBER 1981

DOJ-1981-11